

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

June 25, 2019

File No. 190708

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 18, 2019, Mayor Breed submitted the proposed legislation:

File No. 190708

Ordinance amending the Environment Code to require all nonresidential buildings of 50,000 square feet or more to provide all on-site electricity demands from 100% greenhouse gas-free or renewable sources and to authorize the Director of the Department of the Environment to adopt rules and regulations for implementation of the requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

1 [Environment Code - 100% Renewable Energy Required for On-Site Electricity Demands in
2 Nonresidential Buildings of 50,000 Square Feet or More]

3 **Ordinance amending the Environment Code to require all nonresidential buildings of**
4 **50,000 square feet or more to provide all on-site electricity demands from 100%**
5 **greenhouse gas-free or renewable sources and to authorize the Director of the**
6 **Department of the Environment to adopt rules and regulations for implementation of**
7 **the requirements; and affirming the Planning Department's determination under the**
8 **California Environmental Quality Act.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. CEQA Finding. The Planning Department has determined that the actions
18 contemplated in this ordinance comply with the California Environmental Quality Act
19 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
20 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
21 reference. The Board affirms this determination.

22 Section 2. The Environment Code is hereby amended by adding Chapter 30,
23 consisting of Sections 3000-3008, to read as follows:
24
25

1 **CHAPTER 30: RENEWABLE ENERGY FOR COMMERCIAL BUILDINGS**

2

3 **SEC. 3000. TITLE.**

4 This Chapter 30 may be referred to as the 100% Renewable Energy for Commercial Buildings
5 Ordinance.

6

7 **SEC. 3001. FINDINGS.**

8 (a) With San Francisco’s strong green building codes, the City has some of the most energy-
9 efficient new buildings in the nation. However, San Francisco is also one of the oldest urban areas in
10 California and many of its buildings were built before energy efficiency codes were enacted. San
11 Francisco’s older building stock uses electricity partially supplied by fossil-fuel burning power plants
12 and heat that is primarily supplied by the combustion of natural gas – both of which emit carbon
13 dioxide, one of several pollutants that contribute to global warming.

14 (b) The City’s Existing Commercial Buildings Task Force, established in 2009,
15 recommended systematically identifying all cost-effective opportunities to improve the energy efficiency
16 of commercial buildings citywide. In 2011, Chapter 20 of the Environment Code was enacted to
17 require owners of nonresidential buildings over a certain size to conduct Energy Efficiency Audits of
18 their properties and file Annual Energy Benchmark Summaries for their buildings.

19 (c) In 2011 the Mayor convened a Renewable Energy Task Force to develop
20 recommendations to help San Francisco achieve its goal of 100% renewable electricity supply by 2020.
21 The City’s completed 2017 community-wide inventory of greenhouse gas (GHG) emissions found that
22 the buildings sector is responsible for 42% of emissions, second only to transportation.

23 (d) As reported in the City’s 2017 San Francisco Emissions Inventory, San Francisco’s
24 emissions in 2017 were 36% below 1990 levels, well ahead of the statewide goal set in California’s
25 Assembly Bill 32 of achieving 1990 emissions levels by 2020. In 2008, the City enacted Chapter 9 of

1 the Environment Code, which set additional GHG emissions reduction targets of 40% below 1990
2 levels by 2025 and 80% below 1990 levels by 2050. The City's efforts to reduce GHG emissions have
3 focused on using less energy, improved efficiency, and energy recovery as well as de-carbonizing the
4 energy supply by replacing fossil fuels sources with renewable energy sources – micro-hydro, wind,
5 geothermal, solar, wave, and biomass.

6 (e) Chapter 9 of the Environment Code requires a GHG emissions reduction plan for the
7 City, mandates that City departments take certain steps to reduce the City's GHG emissions, and
8 requires City departments to submit annual reports to the Department of the Environment. As of 2017,
9 just under 3% of San Francisco's GHG emissions were generated by energy consumed in municipal
10 government buildings and fleet vehicles. Moving to 100% renewable electricity in the private sector is
11 a significant step the City can take to continue reducing GHG emissions and meet Climate Action
12 Strategy goals.

13
14 **SEC. 3002. DEFINITIONS.**

15 For purposes of this Chapter 30, the following terms have the following meanings:

16 **Building Owner.** A person, as defined by California Public Resources Code Section 25116 or
17 any successor law, possessing title to the building.

18 **Director.** The Director of the Department of the Environment or the Director's designee.

19 **Energy.** Electricity, natural gas, steam, heating oil, or other product sold by a utility to a
20 customer of a nonresidential building, or renewable on-site electricity generation, for purposes of
21 providing heat, cooling, lighting, water heating, or for powering or fueling other end-uses in the
22 building and related facilities.

23 **Energy Professional.** An individual qualified to perform an energy efficiency audit required by
24 Chapter 20 of the Environment Code.

1 **Greenhouse Gas (GHG)-free or renewable energy resources.** Energy resources qualifying as
2 renewable pursuant to California Public Resources Code Chapter 8.6, Section 25741(a), as amended
3 from time to time, and from hydroelectric facilities of 30 megawatts or greater.

4 **Gross floor area.** The total number of square feet measured between the principal exterior
5 surfaces of enclosing fixed walls.

6 **Nonresidential Building.** A facility composed of occupancy types(s) other than residential –
7 including type A, B, E, I-1, I-2, I-3, M, R-1, and S, as defined in Chapter 3 of the California Building
8 Code, as amended from time to time, and where a gross area of 10,000 square feet or more is heated or
9 cooled in its interior.

10
11 **SEC. 3003. 100% RENEWABLE ELECTRICITY USAGE AND COMPLIANCE.**

12 (a) **Applicability and Schedule for Compliance.** The date of applicability of the
13 requirements of this Chapter 30 to Nonresidential Buildings is as follows, based on gross floor area:

14 (1) Buildings of 500,000 square feet in gross floor area or larger: December 31, 2022;

15 (2) Buildings of 250,000 square feet in gross floor area or larger, but below 500,000
16 square feet: December 31, 2024;

17 (3) Buildings of 50,000 square feet in gross floor area or larger, but below 250,000
18 square feet: December 31, 2030.

19 Nonresidential Buildings of less than 50,000 square feet in gross floor area are not subject to
20 the requirements of this Chapter.

21 (b) **Renewable Electricity Requirement.** Each Nonresidential Building subject to this
22 Chapter 30 shall, as of the date specified in subsection (a), ensure that all on-site electricity demands
23 are met through any combination of:

24 (1) on-site generation of 100% greenhouse gas (GHG)-free electricity, and/or

25 (2) purchase of electricity from 100% GHG-free sources.

1 (c) **Tenants.** In buildings subject to the requirements of this Chapter 30, it shall be the
2 responsibility of nonresidential building tenants to ensure that all meters for which they are the account
3 holder are in compliance with the renewable electricity provisions of Section 3003(b), and the
4 reporting requirements of Sections 2002(b) and (c). Nothing in this Section 3003 shall be construed to
5 permit a building owner to use tenant utility subscription data or usage data for purposes other than
6 compliance with Chapters 20 and 30 of the Environment Code.

7 (d) **Program Wait List.** A nonresidential building subject to this Chapter 30, as of the date
8 specified in subsection (a), will be compliant if they are on a waitlist for enrollment in a program
9 satisfying the conditions of subsection (b).

10 (e) **Existing Electricity Contracts.** A nonresidential building subject to this Chapter 30 will
11 not be considered in violation of this Chapter 30 during the term of an existing long-term energy
12 contract executed and dated prior to December 31, 2019.

13
14 **SEC. 3004. IMPLEMENTATION.**

15 (a) The Director may adopt rules and regulations for the implementation of this Chapter 30,
16 including rules for an electronic submittal of an Annual Statement of Sources of Electricity, and for the
17 verification of compliance with the requirements of this Chapter.

18 (b) The Director may modify or suspend any or all of the requirements of this Chapter 30 if
19 the Director submits a written determination to the Board of Supervisors and the Mayor indicating:

20 (1) lack of GHG-free or renewable energy market resources available to meet
21 demand, and/or

22 (2) the cost of all available 100% GHG-free or renewable electricity options is more
23 than 5% of each provider's default program offering, and/or

24 (3) the requirement conflicts with or is similar or less comprehensive than a
25 renewable energy requirement adopted by the State of California or the Federal government.

1
2 **SEC. 3005. ENFORCEMENT.**

3 The enforcement procedures and use of proceeds provisions of Chapter 20, Section 2009, shall
4 apply to violations of this Chapter 30.

5
6 **SEC. 3006. PROMOTION OF THE GENERAL WELFARE.**

7 In adopting this Chapter 30, the City and County of San Francisco is assuming an undertaking
8 only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees,
9 an obligation for breach of which it is liable in money damages to any building owner who claims that
10 such breach proximately caused injury.

11
12 **SEC. 3007. CONFLICT WITH STATE OR FEDERAL LAW.**

13 The provisions of this Chapter 30 shall be construed so as not to conflict with applicable federal
14 or state laws, rules, or regulations. Nothing in this Chapter shall authorize any City agency or
15 department to impose any duties or obligations in conflict with limitations on municipal authority
16 established by federal or state law at the time such agency or department action is taken.

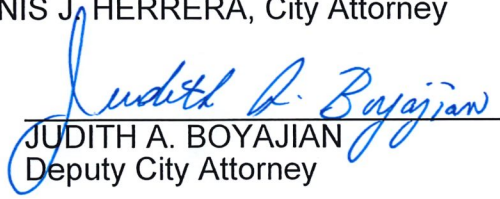
17
18 **SEC. 3008. SEVERABILITY.**

19 If any of the provisions of this Chapter 30 or the application thereof to any building owner or
20 circumstance is held invalid, the remainder of those provisions, including the application of such part
21 or provisions to building owners or circumstances other than those to which it is held invalid, shall not
22 be affected thereby and shall continue in full force and effect. To this end, the provisions of this
23 Chapter are severable.

1 Section 3. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By:


8 JUDITH A. BOYAJIAN
Deputy City Attorney

9 n:\leganas2019\1900357\01355192.docx

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LEGISLATIVE DIGEST

[Environment Code - 100% Renewable Energy Required for On-Site Electricity Demands in Nonresidential Buildings of 50,000 Square Feet or More]

Ordinance amending the Environment Code to require all nonresidential buildings of 50,000 square feet or more to provide all on-site electricity demands from 100% greenhouse gas-free or renewable sources and to authorize the Director of the Department of the Environment to adopt rules and regulations for implementation of the requirements; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

There are no amendments to existing law.

Amendments to Current Law

This ordinance would add Chapter 30 to the Environment Code. It requires that all nonresidential buildings of 50,000 square feet or more to meet all on-site electricity demands through any combination of (1) on-site generation of 100% greenhouse gas (GHG)-free or renewable sources and/or (2) the purchase of electricity from 100% GHG-free sources. Buildings of 500,000 gross square feet of floor area (as defined) or larger must meet the requirement by December 31, 2022; buildings of 250,000 gross square feet or larger must meet the requirement by December 31, 2024; and buildings of 50,000 gross square feet or larger must meet the requirement by December 31, 2030. The Director of the Department of Environment may adopt rules and regulations for the implementation of the requirements and may modify or suspend the requirements if the State of California or the Federal government adopts a similar or more comprehensive renewable energy requirement or a requirement that conflicts with the San Francisco requirements.

Background Information

While San Francisco has some of the most energy efficient new buildings in the nation, it is also one of the oldest urban areas in California and many of its buildings were built before energy efficiency codes were enacted. The City's older building stock uses electricity partially supplied by fossil-fuel burning power plants and heat that is primarily supplied by the combustion of natural gas – both of which emit carbon dioxide, one of several pollutants that contribute to global warming.

In 2011, the Mayor convened a Renewable Energy Task Force to develop recommendations to help San Francisco achieve its goal of 100% renewable electricity supply by 2020, and the City's most recently completed 2017 community-wide inventory of GHG emissions found that the buildings sector is responsible for 42% of emissions, second only to transportation.

Chapter 9 of the Environment Code requires a GHG emissions reduction plan for the City, mandates that City departments take certain steps to reduce the City's GHG emissions, and requires City departments to submit annual reports to the Department of the Environment. By 2017, just under 3% of San Francisco's GHG emissions were generated by energy consumed in municipal government buildings and fleet vehicles. Moving to 100% renewable energy in the private sector is a significant step the City can take to continue reducing GHG emissions and meet its Climate Action Strategy goals.

n:\legana\as2019\1900357\01352355.docx